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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,209	05/14/2001	Robert Seseek	10007891-1	2798

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HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER

WILLETT, STEPHAN F

ART UNIT

PAPER NUMBER

2142

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/855,209

Applicant(s)

SESSEK

Examiner

Stephan F. Willett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selitrennikoff et al. with Patent Number 6,301,612 in view of Winkel with Patent Number 5,600,632.
2. Regarding claim(s) 1, 5, 11, 14-15, 18, Selitrennikoff teaches using a computer network to download user configurations. Selitrennikoff teaches receiving user specified data associated with a device, col. 3, lines 5-6; col. 8, lines 59-63; col. 9 lines 66-67; col. 16, lines 22-23 via a computer applications, col. 5, lines 60-63, and a user interface as “the user may enter”, col. 16, lines 21 which is stored in memory, col. 8, lines 1-4. Selitrennikoff teaches storing the user specific data, col. 7, lines 30-32. Selitrennikoff teaches automatic backup procedures for storing data as “data loss”, col. 7, lines 30-32. Selitrennikoff teaches notification that a replacement device is needed as “determine whether ... component [device] ... have been changed”, col. 6, lines 22-25, and “replacement scenarios”, col. 6-7, 64-4. Selitrennikoff teaches configuring the replacement device, col. 11, lines 55-58. Selitrennikoff teaches the invention in the above claim(s) except for explicitly teaching repairing a device and interchanging the repaired device with the replacement device. In that Selitrennikoff operates to provide network support services,

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the artisan would have looked to the computer network arts for details of implementing reconfigurations. In that art, Winkel, a related network adapter, teaches a "set of instructions comprises computer code which replaces or supplements the original computer code", col. 3, lines 7-10 in order to provide a user friendly system. Winkel specifically teaches "repair of computer system", col. 3, line 20. Further, Winkel suggests "the set of instructions is further adapted to send information to the client computer", col. 3, lines 21-23 which will result from implementing the repair system. The motivation to incorporate repaired computers insures that all viable replacements are accounted. Thus, it would have been obvious to one of ordinary skill in the art to incorporate a repair computer as taught in Winkel into the configuration system described in the Selitrennikoff patent because Selitrennikoff operates with replacements and Winkel suggests that optimization can be obtained replacing repaired computers. Therefore, by the above rational, the above claim(s) are rejected.

3. Regarding claim(s) 2, 12, 19, Selitrennikoff teaches providing the device to a user, col. 6, lines 14-17.

4. Regarding claim(s) 3, Selitrennikoff teaches receiving the device as "new computer, or new or replacement hardware", col. 6, lines 18-20.

5. Regarding claim 4, 13, the Selitrennikoff and Winkel. patents discloses the method of the preceding claims. The Selitrennikoff and Winkel. patents do not explicitly disclose payment per se. However, the Selitrennikoff and Winkel patents with Official Notice is taken MPEP 2144.03 (a)) that paying for services is well known in the art to insure costs are met. It would have been obvious to one of ordinary skill in the art at the time of the application's invention to pay for services to obtain the advantages of receiving the services. By the above rational, the claim is

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rejected.

2. Regarding claim(s) 6, 17, 20, Selitrennikoff teaches a laptop computer, col. 6, lines 2-3.

3. Regarding claim(s) 7, Selitrennikoff teaches enabling the user to customize data, col. 8, lines 59-62.

4. Regarding claim(s) 8, 10, Selitrennikoff teaches providing user data via a network interface, col. 8, lines 23-26.

6. Regarding claim(s) 9, 16, Selitrennikoff teaches communicating with an external device to program the programmable device, col. 7, lines 36-38.

***Response to Amendment***

1. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

2. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

3. Applicant suggests Selitrennikoff fails to keep "the stored user-specific data current with automatic backups", Paper Filed 3/21/05, Page 7, lines 17-18. However, Selitrennikoff teaches automatic backup procedures for storing data as "data loss", col. 7, lines 30-32 as does Winkel since these backups are clearly automatic in response to a some type of automatic backup type response or command or trigger. The references should not be read in a vacuum, the teachings are not mutually exclusive, and must be taken in context of what was reasonable based on the subject matter as a whole as would have been understood at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. The descriptions in

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the references are not obfuscated by the numerous other suggested usages of said description in the reference. In addition, implicitly, impliedly and inferentially, various automatic backups are taught and language identical or verbatim is not required in an obvious rejection. Note that reasonable “inferences”, and “common sense” may be considered in formulating rejections for obviousness. Specifically, *In re Preda*, 401 F.2d 825, 159 USPQ 342, 344 (CCPA 1968) states “in considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom.” Also, *In re Bozek*, 416 F.2d 738, 163 USPQ 545, 549 (CCPA 1969) states that obviousness may be concluded from “common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference”. Additionally, see *In re Gauerke*, 24 CCPA 725, 86 F.2d 330, 31 USPQ 330, 333 (CCPA 1936), and *In re Libby*, 45 CCPA 944, 255 F.2d 412, 118 USPQ 94, 96 (CCPA 1958), and *In re Jacoby*, 309 F.2d 738, 125 USPQ 317, 319 (CCPA 1962), and *In re Wiggins*, 488 F.2d 538, 543, 1979 USPQ 421, 424 (CCPA 1973). Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the references is suggested. A close review of the Atkins reference with Patent Number 6,182,212 is suggested. The other references cited teach numerous other ways to configure networked computers, thus a close review of them is suggested.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

5. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (571) 272-3890. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571)272-3880. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

sfw

May 18, 2005

  
**BEATRIZ PRIETO**  
**PRIMARY EXAMINER**

